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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/758,194 | 01/16/2004 | Cam Beatty | 5174-73 | 4901 |

1059 7590 11/23/2004

~~BERESKIN AND PARR~~
SCOTIA PLAZA
40 KING STREET WEST-SUITE 4000 BOX 401
TORONTO, ON M5H 3Y2
CANADA

EXAMINER

CRAWFORD, GENE O

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3651

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/758,194 | Applicant(s) BEATTY ET AL. 31 | |
| | Examiner Gene O. Crawford | Art Unit 3651 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-9 and 11-17 rejected under 35 U.S.C. 102(b) as being anticipated by Hurd.

The conveyor system disclosed by Hurd includes all the claimed features and in particular includes: **(claim 1)** an inlet 104; an outlet 106; a first endless conveying element 96 having a contact surface and configured to transport at least one object along a transportation path from proximate the inlet to proximate the outlet; securing means 94 for securing the at least one object to the contact surface along a secured portion of the transportation path; **(claims 2, 16)** the secured portion of the path being substantially vertical; **(claims 4, 15)** the securing means being a second endless conveying element having a securing surface and configured to maintain its securing surface proximate the contact surface wherein an object is positioned between the first conveying element 96 and second conveying element 94; **(claim 5)** at least one main guide element 116, 128 for directing the first and second endless conveying elements along the secured portion of the transportation path; **(claim 6)** the at least one main guide element including at least one main guide roller (figure 7); **(claim 7)** the at least one main guide element includes a second main guide roller (figure 7); **(claim 8)** the

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main guide element including a plurality of rollers 116, 128; **(claim 9)** the plurality of rollers are each approximately the same size (figure 7); **(claims 11, 12)** a drive mechanism ~~104 for driving the first endless conveying element 96~~, the drive mechanism being configured to drive the second endless conveying element 94 at the same speed as the first endless conveying element (column 4, lines 31-36); **(claim 13)** the inlet is positioned proximate a first height and wherein the outlet is positioned proximate a second height which is different from the first height (figure 7); **(claim 14)** the secured portion is substantially curvilinear (figure 7); and **(claim 17)** including a tensioner 120 for maintaining tension in the first conveying element.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurd in view of Anmahian.

With regard to claim 3, Hurd includes all the claimed features but does not disclose the first endless conveying element having a securing means including a securing surface wherein the object is positioned between the securing surface and the contact surface. However, Anmahian discloses the broad teaching of providing a conveying system for transferring objects on an endless conveying element wherein the

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conveying element 14 has a securing surface 14b where product is transferred in between the securing surface and the contact surface of the belt. It would have been obvious to one of ordinary skill in the art to provide the first conveying element of Hurd include a securing means having a securing surface to facilitate securing the object during conveyance from the input to the output as taught by Anmahian.

5. Claim 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurd in view of Schwing et al.

With regard to claim 10, Hurd includes all the claimed features but does not disclose the main guide roller is sufficiently large relative to the at least one object. However, Schwing et al. discloses the broad teaching of providing a sufficiently large guide roller 16, 20 with respect to the material conveyed. It would have been obvious to one of ordinary skill in the art to provide the guide rollers be configured sufficiently large with respect to the objects such requiring the mere choice of an art recognized configuration for guide rollers in a conveying system as taught by Schwing et al.

Conclusion

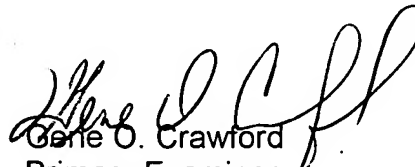
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are cited to show the art with respect to vertical conveyors having opposed endless belts: Frich, Chassang and Misener et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 703/305-9733. The examiner can normally be reached on Monday thru Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 703/308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gene O. Crawford
Primary Examiner
Art Unit 3651
